

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION (WP) 8026/2022

1. Mandar Bhushan Thakur
Age: 15 Yrs., Occ: Education,
 2. Makarand Bhushan Thakur
Age: 15 Yrs., Occ: Education
Since minor through their father
Shri. Bhushan Damodar Thakur
Aged:- 45 Occ – Service
R/o- Ujjwal Nagar, Daryapur
Road, In front of M.S.E.B. Office
Tq. Akot, Dist. Akola
- PETITIONER(S)

// VERSUS //

1. Vice Chairman /Joint
Commissioner Schedule Tribe
Caste Certificate Scrutiny
Committee, Amravati Division,
Amravati.
 2. Sub Divisional Officer,
Daryapur, Dist. Amravati.
- RESPONDENT(S)

Mr. S.S. Khadse, Advocate for the petitioners
Mrs. Kalyani R. Deshpande, AGP for the respondents

CORAM : ROHIT B. DEO AND
Y.G. KHOBRAGADE, J.J.

DATED : 18/01/2023

ORAL JUDGMENT : (PER:- Y.G. KHOBRAGADE, J.)

Heard Mr. S.S. Khadse, learned Counsel for the petitioners
and Mrs. Kalyani R. Deshpande, learned Assistant Government Pleader
for the respondents at length.

2. Rule. Rule made returnable forthwith. With the consent of both the sides the matter is heard finally at the stage of admission.

3. The petitioners who are real brothers claimed that they belong to 'Thakur', Scheduled Tribe which is recognized at serial 44 in the list of the Constitution (Scheduled Tribes) Order, 1950. The petitioners applied to respondent 2 – Sub-Divisional Officer for issuance of caste certificate as "Thakur" Scheduled Tribe by producing all relevant documents. However, respondent 2 – Sub-Divisional Officer on 17.11.2021 rejected the application of the petitioners on the ground of insufficient documentary evidence.

4. Feeling aggrieved, the petitioners filed an appeal before respondent 1 – Scrutiny Committee. Respondent 1 – Scrutiny Committee on 09.06.2022 rejected the appeal of the petitioners. Hence, the petitioners have filed the present petition.

5. It is submitted on behalf of petitioners that similar situation is considered in the case of *Namdeo s/o. Baburao Ingale and ors. Vs. Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati [2015(2) Mh.L.J. 707]* wherein, the co-ordinate Bench of this Court has held that in view of Section 6 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes,

Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, the Scrutiny Committee can verify the certificate only after its issuance by the Competent Authority and not otherwise. It is also held that the Sub-Divisional Officer does not have a power to verify the claim of issuance of Caste Certificate, but has to only find out whether minimum requirement is made out for issuance of a Caste Certificate. The coordinate Bench of this Court in paragraph 15 observed thus:-

“15. Perusal of the above Rule 12 clearly shows that the Scrutiny Committee has been empowered to make an adjudication in various details and from all angles and the function of the Vigilance Cell is investigative, while that of Scrutiny Committee is adjudicative and it clearly acts as a quasi judicial authority, if not a Court of Law. The Committee consists of various members and experts. To sum up, in our opinion, it would not be harmonious, but also inconsistent with the scheme of the Act, to hold that the Competent Authority, who is required to satisfy itself about genuineness of the caste claim, would be entitled to make adjudication about the validity of the claim of the applicant under the garb of satisfying the genuineness of the claim for a Tribe Certificate. The fact that under the scheme of the Act, the Caste Scrutiny Committee constituted under Section 6 can verify the Caste Certificate only after its issuance by the Competent Authority and not otherwise, clearly shows that the only harmonious construction keeping in mind the scheme of the Act and the Rules would be to hold that the Sub-Divisional Officer does not have a power to verify the claim for issuance of a Caste Certificate, but has to only find out whether minimum requirement is made out for issuance of a Caste Certificate. To hold otherwise would be making the constitution of Caste Scrutiny Committee as well as power of verification of Caste Certificates nugatory and to completely deface, defile or

remove the provisions of verification of caste certificates by the Scrutiny Committee.”

6. In the present petition, the petitioners produced the relevant documents before respondent 2 – Sub- Divisional Officer as well as before respondent 1 – Scrutiny Committee in support of their caste claim including document 2 which pertains to School leaving Certificate of his father – Bhushankumar Damodar Thakur and pre-constitutional document 3 - School leaving certificate of their grandfather Damodhar Wamanrao Thakur alongwith other relevant documents. The petitioners have also produced Caste Certificate issued to their cousin brother Rohit Sunil Thakur of caste “Thakur” Scheduled Tribe. The aforesaid documents and other relevant documents produced by the petitioners before the respondents show the caste of the relatives of the petitioners as “Thakur”.

7. Upon perusal of the record, orders passed by the respondents and in view the judgment in the case of ***Namdeo s/o. Baburao Ingale*** (supra), we pass the following order:

I. The appellate order passed by respondent 1 – Scrutiny Committee dated 09.06.2022 and the order of the Sub-Divisional Officer refusing to issue the caste certificate are quashed.

II. Respondent 2 – Sub-Divisional Officer, Daryapur is directed to issue caste certificates to the petitioners of “Thakur” Scheduled Tribe, which shall be subject to verification on its own merit.

8. Rule is made absolute in the aforesaid terms with no order as to costs.

(Y.G. KHOBRADE, J.)

(ROHIT B. DEO J.)

**SANDIP
MAHADEV
GATE**

Personal Assistant to the
Hon'ble Judge
Digitally signed by
SANDIP MAHADEV GATE
Date: 2023.04.17
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